

# TAKEROOT JUSTICE

December 11, 2023

**VIA ECF**

The Honorable Joseph A. Marutollo  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East, Chamber N 631  
Brooklyn, NY 11201

Re: **Molina, et. al. v. Xia et. al., 22-cv-00864-PKC-JAM**

Dear Judge Marutollo:

As counsel to the Plaintiffs in this matter, we write to submit a status letter pursuant to the Court's Order dated December 7, 2023. Because no counsel has filed a notice of appearance on behalf of Defendants so we are filing this letter solely on behalf of the Plaintiffs. As explained below, we believe Defendants have defaulted as a result of their failure to comply with the Court's Orders, and thus, we intend to file a Request for a Certificate of Default to the Clerk of the Court.

**Court Orders Dated September 6, 2023 and Defendants' Failure to Comply with the Orders**

In June 2023, the Plaintiffs served responses to both Defendants' Requests for Documents and Interrogatories and contacted then-Defendants' counsel about Defendants' failure to serve their responses to Plaintiffs' Request for Documents and Interrogatories. On July 17, 2023, we received an email response from Defendants' counsel and on July 19, 2023, conferred with counsel about the outstanding discovery, potential settlement, and other issues. Defendants' counsel stated that they intended to not proceed with discovery and on July 28, 2023, Plaintiffs filed a letter motion to compel an Order directing Defendants to provide discovery.

On August 3, 2023, then-Defendants' counsel, Paul Millus, of Meyer, Suozzi, English & Klein, filed a motion to withdraw. On September 6, 2023, Magistrate Ramon E. Reyes granted Defendants' counsel's motion to withdraw, and issued an Order as follows:

Defendants have 30 days, until October 6, 2023, to find substitute

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counsel and have said counsel file a notice of appearance. If substitute counsel does not file a notice of appearance within 30 days, defendant Xia must proceed in a pro se capacity, and the corporate defendants will thereafter be unrepresented and will be deemed to be in default.

As no counsel has filed a notice of appearance on behalf of Defendants, we consider the corporate Defendants to be in default.

Also on September 6, 2023, the Court ordered Defendants to provide full and completed responses to Plaintiffs' Request for Interrogatories dated December 20, 2022, and Request for Production of Documents dated December 20, 2022 by November 17, 2023. The Court stated, "(f)ailure to respond as ordered may be the basis for a motion for default judgment for failure to abide by a court order or failure to prosecute." Because the November 17 deadline has come and gone, we also consider the individual Defendant, Richard Xia, to be in default. The corporate Defendants' failure to provide discovery also is a basis for their default.

Consequently, Plaintiffs intend to file a Request for a Certificate of Default to the Clerk of the Court.

Sincerely,  
/s/ Naoki P. Fujita  
Counsel to Plaintiffs

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